



# EQUALITY NOW

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Committee for Justice  
Room 242, Parliament Buildings  
Ballymiscaw, Stormont  
Belfast, BT4 3XX  
Submitted by email: [committee.justice@niassembly.gov.uk](mailto:committee.justice@niassembly.gov.uk)

1 November 2013

Dear Members of the Committee

I am writing to you on behalf of Equality Now, an international women's rights organisation dedicated to ending violence and discrimination against women and girls around the world. We work to end trafficking in women and girls and partner with many grassroots organisations, several of whom are survivor-led, to end the commercial sexual exploitation of women and girls.

Equality Now welcomes the Committee's consultation on the *Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill* and appreciates the opportunity to contribute with the present submission.

Specifically, Equality Now strongly supports the criminalisation of the purchase of sex and the decriminalisation and support of those selling sex as measures to promote equality between women and men and to reduce prostitution and organised crime surrounding it, including trafficking for sexual exploitation. As such, this submission will focus mainly on Clause 6 of the Bill, with further comments on some of the other clauses.

Please find our detailed response below.

Thank you for your attention and for taking the above into consideration in your deliberations on the bill. If we may provide any further information or clarification, please do not hesitate to contact me.

Yours faithfully

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## **Submission by Equality Now to Justice Committee of the Northern Ireland Assembly on the *Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill***

### **Clause 2 – Consent irrelevant for victim of human trafficking or slavery offences**

While we do not believe that an individual can consent to their own exploitation, we consider it vital to include in the law an enumeration – in line with international and European legislation – of circumstances in which a victim’s consent shall be considered irrelevant. Either in the text of the law or its explanatory note, it should be elaborated what types of situation can constitute ‘vulnerability’, including at a minimum, but not limited to, poverty, drug addiction etc.

### **Clause 3 – Aggravating factors**

As a point of principle, we consider trafficking for sexual exploitation always to involve violence and harm and, as such, the penalties for trafficking-related crimes should be commensurate with its severity and damaging effects.

That said, if the revised legislation enumerates specific aggravating factors, we would propose to add when the perpetrator is related to, has legal guardianship over, or is in a position of trust or authority in relation to the victim.

### **Clause 6 – Paying for sexual services of a person**

Equality Now fully supports the criminalisation of the purchase of sex and the decriminalisation of the selling of sex, or the so-called Nordic model, as has been implemented in Sweden, Norway and Iceland, and is currently under consideration also in the Republic of Ireland, France and Finland. Importantly, this is the approach advocated for by many survivors of commercial sexual exploitation worldwide<sup>1</sup>.

Prostitution is based on, and sustains gender and other inequalities in society (the vast majority of people in prostitution are women and the vast majority of those paying for sex are men), and is directly and inextricably linked to human trafficking and organised crime. Legislation legalising/regulating prostitution has been shown in several locations to make monitoring of trafficking, organised crime and exploitation more difficult for police because crimes are now occurring under the cloak of the legal sector, while it furthermore has been shown in several places to fail to improve the health, safety and social standing of people in prostitution<sup>2</sup>.

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<sup>1</sup> See: [http://www.equalitynow.org/take\\_action/sex\\_trafficking\\_action511](http://www.equalitynow.org/take_action/sex_trafficking_action511); Westcott, L. (2013) ‘Survivors Question U.N. Focus on Legalising Sex Work’, IPS, 23 September, available at: <http://www.ipsnews.net/2013/09/survivors-question-u-n-focus-on-legalising-sex-work/>.

<sup>2</sup> See: Equality Now (2012), “Does Legalizing Prostitution Protect Women and Girls?”, available at: [http://www.equalitynow.org/sites/default/files/Does\\_Legalizing\\_Prostitution\\_Protect\\_Women\\_and\\_Girls\\_EN.pdf](http://www.equalitynow.org/sites/default/files/Does_Legalizing_Prostitution_Protect_Women_and_Girls_EN.pdf); Hunt, Jacqui (2013), “Debunking the myths: why legalising prostitution is a terrible idea”, Huffington Post, 3 April, available at: [http://www.huffingtonpost.co.uk/jacqui-hunt/legalising-prostitution-is-a-terrible-idea\\_b\\_2644337.html](http://www.huffingtonpost.co.uk/jacqui-hunt/legalising-prostitution-is-a-terrible-idea_b_2644337.html).

On the other hand, the Nordic model, ie legislation criminalising the purchase of sex, while decriminalising and providing services to those selling sex – including support in exiting – sends the clear message that women and girls are not for sale, thereby promoting gender equality. This approach is thus key to promoting gender equality, to reducing prostitution and crime surrounding it (including trafficking for sexual exploitation) and to protecting the most vulnerable in society.

At the level of the European Union (EU), it has been increasingly recognised, and reflected in EU policies, that there is an inextricable link between the demand for commercial sex and sex trafficking<sup>3</sup>. As such, reducing demand for commercial sex is an integral part to combating sex trafficking.

In Northern Ireland, as an NIA research paper notes, ‘[t]he current legislation which criminalises users of sexual services of trafficked women is not a sufficient deterrent’, and the authors note that the evidence from interviews with key stakeholders ‘suggested that the criminalisation of the procurement of sex in general would be more effective<sup>4</sup>’. In Finland, where a similar offence has been in force since 2006 (criminalising the knowing use of the services of a victim of trafficking), police have recently reported they are not able to effectively enforce the law, which has prompted renewed calls from the Finnish Minister of Justice to introduce a full ban on the purchase of sex in line with the Nordic model. Meanwhile, countries that have legalised and regulated prostitution, including Germany and the Netherlands, are increasingly recognising that their systems are failing to reduce sex trafficking and organised crime or to improve the situation of people in prostitution as envisaged by the legislation.

By criminalising the purchase of sex and decriminalising and supporting those selling sex, the Government of Northern Ireland would be sending the strong signal (already enacted by others – including Sweden, Norway and Iceland –that it will not tolerate sex or other inequality, that human beings are not for sale and that targeting the demand for sexual services is key to reducing prostitution and the trafficking supplying it. In amending its legislation in line with this approach, Northern Ireland would be taking the lead within Great Britain in enacting this progressive approach in combating sexual exploitation and sex trafficking, and at the same time promoting gender equality through tackling one of its most blatant manifestations and sustainers.

For the avoidance of doubt, we believe that those selling sex should not be criminalised and this should be made explicit in all relevant legislation while at the same time ensuring that those who profit from prostitution, including those who buy sexual services, are punished.

Finally, we propose that the provision also criminalise the use of sexual services paid for by a third party, and payment should include non-monetary payment such as food, shelter, alcohol, drugs, clothing, etc.

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<sup>3</sup> [http://europa.eu/rapid/press-release\\_MEMO-13-331\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-331_en.htm); [http://europa.eu/rapid/press-release\\_SPEECH-13-763\\_en.htm?locale=en](http://europa.eu/rapid/press-release_SPEECH-13-763_en.htm?locale=en)

<sup>4</sup> Potter, M. and Egerton, L. (2012) ‘Human Trafficking in Northern Ireland’, p. 31.

## **Part 2 – assistance and support (Clauses 9-12)**

Due to the devastating psychological and physical effects that trafficking and exploitation has on victims, and the time and resources necessary for even partial recovery, we would propose an extension to the time period for which victims are provided assistance and support, from three months to at least six months. Furthermore, we propose that, as set out in Article 11(2) of the European Directive, this assistance is not to be linked to victims' willingness to cooperate in any criminal investigations or proceedings.

In addition to the measures outlined in Articles 11 of the European Directive, we propose furthermore that, whenever possible, victims are given a choice to receive assistance – especially psychological assistance and counselling – from professionals of the same sex. For example, a victim repeatedly raped by men may experience renewed trauma at having to recount her experiences to a man, and/or may not feel secure enough to disclose any information at all. Furthermore, whenever possible survivors should have the choice to receive counselling/support from professionals trained in cross-cultural counselling, and/or from counsellors of the same community.

An integral pillar of the Nordic model, in addition to criminalising the purchase of sex and raising public awareness of the realities of prostitution, is providing exiting and other assistance to people in prostitution. The provision of exit and other support services to people in prostitution is vital. This must have a statutory foundation which guarantees government funding for such programmes and measures.

## **Part 3 – protection of victims of trafficking in human beings in criminal investigation and proceedings (Clause 13 and 14)**

In addition to the measures outlined in Articles 12 and 15 of the European Directive, we propose that, whenever possible, victims are given the choice to be interviewed by law enforcement or prosecution professionals of the same sex, and staff that has received training on cultural diversity and/or staff from the same community.

### **Clause 15 – Prevention**

We welcome the proposal for the Department of Justice to be required to publish an annual strategy. In order to help ensure an holistic approach, in addition to involving representatives of civil society (namely organisations carrying out victim assistance and prevention), this should be developed in cooperation also with other relevant government agencies (eg the Departments of Health, Social Services and Public Safety, Education, and Social Development).